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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/527,986	03/17/2000	Robert Giannini	JARB.005PA	4342

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EXAMINER

GART, MATTHEW S

ART UNIT	PAPER NUMBER
3625	

DATE MAILED: 11/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/527,986	GIANNINI, ROBERT
	Examiner Matthew S Gart	Art Unit 3625
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>		
<b>Period for Reply</b>		
<b>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.</b>		
<ul style="list-style-type: none"> <li>- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.</li> <li>- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).</li> <li>- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</li> </ul>		
<b>Status</b>		
1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>11 October 2002</u> .		
2a) <input type="checkbox"/> This action is FINAL.                            2b) <input checked="" type="checkbox"/> This action is non-final.		
3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.		
<b>Disposition of Claims</b>		
4) <input checked="" type="checkbox"/> Claim(s) <u>1-10</u> is/are pending in the application.		
4a) Of the above claim(s) <u>1-10</u> is/are withdrawn from consideration.		
5) <input type="checkbox"/> Claim(s) _____ is/are allowed.		
6) <input checked="" type="checkbox"/> Claim(s) <u>1-10</u> is/are rejected.		
7) <input type="checkbox"/> Claim(s) _____ is/are objected to.		
8) <input type="checkbox"/> Claim(s) _____ are subject to restriction and/or election requirement.		
<b>Application Papers</b>		
9) <input type="checkbox"/> The specification is objected to by the Examiner.		
10) <input checked="" type="checkbox"/> The drawing(s) filed on <u>March 17, 2000</u> is/are: a) <input type="checkbox"/> accepted or b) <input checked="" type="checkbox"/> objected to by the Examiner.		
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).		
11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved by the Examiner.		
If approved, corrected drawings are required in reply to this Office action.		
12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.		
<b>Priority under 35 U.S.C. §§ 119 and 120</b>		
13) <input type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).		
a) <input type="checkbox"/> All    b) <input type="checkbox"/> Some * c) <input type="checkbox"/> None of:		
1. <input type="checkbox"/> Certified copies of the priority documents have been received.		
2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____.		
3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).		
* See the attached detailed Office action for a list of the certified copies not received.		
14) <input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).		
a) <input type="checkbox"/> The translation of the foreign language provisional application has been received.		
15) <input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.		
<b>Attachment(s)</b>		
1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)		
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)		
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.		
4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____.		
5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)		
6) <input type="checkbox"/> Other: _____.		

## DETAILED ACTION

### *Drawings*

This application has been filed with informal drawings, which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-10 are rejected under 35 U.S.C. 103(a) as being anticipated by Rose U.S. Patent No. 5,930,769, in view of Official Notice, in further view of Dodd U.S. Patent No. 6,321,211.**

Referring to claims 1, 4, 5, 6, 9, and 10. Rose discloses a method and an arrangement for on-line viewing of an article on another structure (at least Abstract), comprising:

- Providing a host-site accessible to an on-line viewer and web-linkable to at least one article-provider site (at least column 1, lines 53-64), the article provider-site having images of articles for view via the web (at least Fig. 3 and Fig. 4);

- Linking the on-line viewer to the host-site and selecting a structure in response to a command received by the on-line viewer (at least Fig. 3 and Fig. 4);
- Using the host-site, linking the viewer to the at least one article-provider site and passing images from that site for view by the on-line viewer (at least Fig. 3 and Fig. 4);
- A memory containing a new image of a merged item composed of merged representations of the different ones of the articles and the structure (at least column 3, lines 18-62);
- Electronically storing partial-data sets respectively corresponding to different ones of the articles (at least column 3, lines 40-62); and
- Generating a new image by merging representations of the different ones of the articles with the structure by forming an image of a merged item including representations of both the structure and the selected article (at least column 2, lines 3-9).

Rose does not expressly disclose a method and an arrangement for on-line viewing of an article on another structure, comprising:

- Communicating the item electronically to another site for a selection, which causes a billing to another site; and
- Electronically gifting the merged item to another site (at least abstract).

Dodd discloses a method and an arrangement for on-line viewing of an article on another structure (at least Abstract), comprising:

- Communicating the item electronically to another site for a selection, which causes a billing to another site (at least column 3, lines 28-50 and column 9, lines 49-67); and
- Electronically gifting the merged item to another site (at least abstract).

Examiner takes official notice the fact that a virtual storage closet is known in the bearing art to be equivalent to a storage device for use in electronic commerce system.

To substitute a virtual storage closet with a memory storage device would have been an obvious functional equivalent. Rose discloses the use of storing personal information in a memory storage device, which is entered into a computer system, which includes body measurements along with credit information, address, and other pertinent facts.

The personal information is a permanent record in the database of the electronic fashion shopping system and redundant input is not needed the next time the customer accesses the system (at least column 3, lines 18-39). This is equivalent to the immediate application's description of an electronic closet, which is used to retrieve an article for matching to other articles in terms of structure and size.

Accordingly, it would have been obvious to one of ordinary skill in the art to modify the system of Rose to include the limitations of Dodd together with the virtual storage closet substitute in view of its closely related configuration and resulting functionality expectation in order to facilitate a means of electronic fashion shopping and manual shopping as a marketing and sales tool for retailers and manufacturers to provide enhanced services and easy shopping for customers while increasing efficiency (Rose: at least column 1, line 65 to column 2, line 2). Moreover, to have modified the

method of Rose to have included the step of Dodd together with the virtual storage closet substitute would have been obvious to the skilled artisan because the inclusion of such step would have been an obvious matter of design choice in light of the method already disclosed by Rose. Such modification would not have otherwise affected the method of Rose and would have merely represented one of numerous steps that the skilled artisan would have found obvious for the purposes already discloses by Rose.

Referring to claims 2 and 7. Rose in view of Dudd discloses a method and arrangement according to claims 1 and 6 as indicated. Rose further discloses a method wherein the partial data sets include a size code (at least column 3, line 18 to column 4, line 44).

Referring to claim 3. Rose in view of Dudd discloses a method and arrangement according to claim 1. Rose further discloses a method wherein the partial data sets include a code identifying a style (at least column 6, line 65 to column 7, line 23).

Referring to claim 8. Rose in view of Dudd discloses an arrangement according to claim 6 as indicated supra. Rose in view of Dudd does not expressly disclose an arrangement configured and arranged to limit a maximum amount of storage space in the memory storage device provided for the on-line viewer. Examiner takes official notice that a memory storage device having a maximum limit to accessible storage space is an inherent component of a memory storage device, and does not substantially distinguish the claimed invention.

***Response to Arguments***

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to one of ordinary skill in the art to modify the system of Rose to include the limitations of Dodd together with the virtual storage closet substitute in view of its closely related configuration and resulting functionality expectation in order to facilitate a means of electronic fashion shopping and manual shopping as a marketing and sales tool for retailers and manufacturers to provide enhanced services and easy shopping for customers while increasing efficiency (Rose: at least column 1, line 65 to column 2, line 2).

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Korszun, U.S. Patent No. 5,680,528, Oct. 21, 1997; discloses a digital dressing room

Hindustan Lever Limited, WO 01/04840, July 7, 1999; discloses a virtual makeover method.

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Patterson et al., U.S. Patent No. 5,680,314, Oct. 21, 1997; discloses a garment sizing system.

Walker et al., U.S. Patent No. 6,138,106, Oct. 24, 2000; discloses a dynamically changing system for fulfilling concealed value gift certificate obligations.

"Compucloz Corporation announces the launch of IMAGINA DIGITAL KAEOVER SYSTEM," Press Release, New Haven, Connecticut, February 5, 1998; discloses a software program for face, hair, and wardrobe makeovers.

Any inquiry concerning this communication should be directed to Matthew Gart whose telephone number is 703-305-5355. This examiner can normally be reached Monday-Friday, 8:30AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wynn Coggins can be reached on 703-308-1344. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

MSG

November 1, 2002



